

REMARKS

In the Office Action of April 1, 2005, the Examiner objected to the drawings because of the indefiniteness regarding the handle location. This is now corrected in the new claims so as to specifically have the handle located on the back panel. Based on this amendment, the need for additional drawing Figures has been obviated.

Further, claims 6, 7, 13 through 16 and 18 through 20 were rejected under 35 USC 112 second paragraph, for the reasons set forth in April 1, 2005 Office Action. It is believed that these rejections have been overcome by the above amendments submitting all new claims in the case.

Claims 1 through 10, 13, 14 and 17 have been rejected under 35 USC 103 (a) based on the Hollenberg patent; claims 11, 15, 18 and 20 were rejected under 35 USC 103 (a) based on Hollenberg patent in view of the Eichin et al patent; claims 12, 16 and 19 were rejected under 35 USC 103 (a) based on Hollenberg patent in view of the Foos patent. The primary patent reference to Hollenberg that was relied upon by the Examiner, is directed to quickly erectable containers. This patent to Hollenberg describes containers and not large scoops for roof shingle disposal. Applicant understands that literal claim interpretation may result in some claims having words that read upon words used by Hollenberg. However, clearly, the flexible paper board panels of Hollenberg are not the large, rigid, metal or plastic roof shingle scoop panels of the present invention. Nonetheless, Applicant is presenting all new claims that specify a “consists

of” preamble language. Additionally, in all of the new present invention claims, the location of the handle, the open top and the open front are now specified.

The reference to Eichin et al relates to non-analogous art. It relates to ice-cream scoops made of rigid metal. The Examiner’s position that Eichin et al discloses an aluminum ice-cream scoop wherein it would be obvious to modify Hollenberg’s flexible paperboard containers to be aluminum is untenable. The combination of these references is improper because Hollenberg does not teach a scoop, because there is no motivation to combine, and because making Hollenberg’s foldable, collapsible containers out of rigid aluminum is contrary to and entirely defeats the purpose of Hollenberg’s invention.

The reference to Foos, as well as the reference to Eichin et al fails to overcome the short comings of Hollenberg. Further, the Hollenberg and the Foos teachings are contradictory and the combination of the two would be contradictory and would be inoperative.

In addition, all of the new claims are structurally more specific and have a “consists of” preamble.

A Petition for Extension of Time to answer, along with the statutory fee is also enclosed.

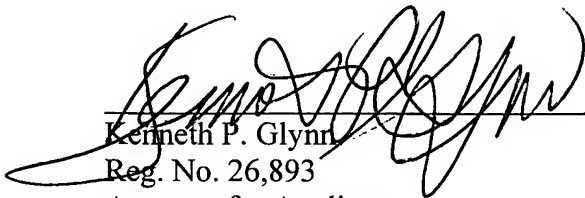
In view of the above amendments and remarks, and the Petition and fee, it is urged that claims 21 through 35 should be allowed.

Thank you.

Respectfully submitted,

Dated: September 21, 2005

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enclosures
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IN THE UNITED STATES PATENT & TRADEMARK OFFICE

In re application of:	: Examiner:
JOHN J. SIMONE	: : CHRISTOPHER J. NOVOSAD
Serial No.: 10/735,2003	: : Group Art Unit No. 3671
Filing Date: December 15, 2003	: : Attorney Docket No.
For: ROOF SHINGLE DISPOSAL SCOOP	: : JJS-101A
	: :

Honorable Commissioner of Patents and Trademarks
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Christine R. Pittman

EM RRR No. ED 982885597 US
(Docket No. JJS-101A)